

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 14 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re)
)
Amendment of Part 74 of the) MM-Docket No. 93-106
Commission's Rules Governing Use)
of the Frequencies in the)
Instructional Television Fixed)
Service)

COMMENTS OF THE RURAL WIRELESS CABLE GROUP

The members of the Rural Wireless Cable Group ("RWG" or "rural wireless cable operators")¹, by their attorneys, join to present their comments and concerns in response to the Commission's Notice of Proposed Rulemaking, Notice of Proposed Rulemaking ("Notice"), released April 26, 1993. RWG consists of several rural wireless cable operators which assist educational institutions in making educational programming available to area students and educators through the Instructional Television Fixed Service ("ITFS"), and also deliver otherwise unavailable multichannel video to residents in rural areas.

RWG submits that until digital compression technology provides a technical and economic solution to ITFS spectrum scarcity, the use of channel loading techniques will best foster the primary purpose of ITFS - the presentation of educational programming for instructional use - by providing wireless cable operators the incentive to invest in ITFS facilities and form partnerships with educators. RWG's comments will address several issues set forth in

I. The Commission's Tradition Of Protecting ITFS For Educational Programming Will Be Furthered By Instituting Channel Loading.

RWG applauds the Commission for its role in preserving the primary educational purpose of ITFS service over the past 30 years while responding to fluctuating demand for the lease of ITFS channels by commercial operators. The Commission's institution of channel mapping² which was permitted to meet a lessee's programming needs for apparent full-time use of the same ITFS channels licensed to educational institutions helped to make wireless cable service more viable. However, more action in the form of channel loading is needed in rural areas. Many rural wireless cable operators effectively have been prohibited from utilizing channel mapping due to the high cost of channel mapping equipment, and have been unable to gain full-time access to ITFS channels.

Channel loading, on the other hand, does not involve the purchase of expensive equipment and will enable the Commission to meet rural wireless cable operators' demand for additional channel space without reallocating ITFS spectrum. By providing enough channel space to meet the demand of rural wireless cable operators, the Commission will actually promote the educational purpose of ITFS by providing the necessary economic incentive for rural wireless cable operators to build ITFS facilities.

Until the advent of digital compression technology, RWG, like other channel loading proponents, views this proposal as an appropriate interim regulatory response which promotes both the

²Wireless Cable Order Recon., 6 FCC Rcd 6764 (1991).

primary educational purpose of ITFS by providing an investment incentive for the wireless cable industry, and the ancillary purpose of promoting the wireless cable industry as a competitor to traditional cable systems.

II. The Commission Should Authorize Channel Loading for Ten Years Following the Advent of Digital Compression Technology.

While RWG supports fully the Commission's proposed authorization of channel loading and welcomes the advent of digital compression, rural wireless cable operators are concerned that the proposed time frame for utilization of channel loading as an interim measure (between three to five years) is insufficient. Inasmuch as the cost of digital equipment is not yet known nor is it clear how readily available the equipment will be, many rural wireless cable operators may find investment in their analog equipment stranded if the authorized channel loading period expires within five years, as proposed by the Commission. Good business practices require that the capital outlay associated with building an analog system should be recouped before a rural wireless cable operator can replace it with its digital counterpart.

Accordingly, RWG urges the Commission to permit the use of channel loading for ten years following the arrival of digital technology to allow for full amortization of analog equipment. A ten year period for the authorized use of channel loading will give rural wireless cable operators sufficient time to amortize the cost

III. While A Specific Number of Required Educational Programming Hours Should Be Scheduled During Specific Times of the Day, The Commission Should Allow Wireless Cable Operators and Educational Institutions to Negotiate the Number of Channels Used For Commercial Programming and the Number of Channels Subject to Ready Recapture.

RWG proposes that the appropriate time frame for scheduling the required educational programming hours should be 6:00 a.m. to 10:00 p.m. Monday through Sunday.³ As a practical matter, it is unlikely that educational institutions will utilize ITFS channels after 10:00 p.m. or before 6:00 a.m. Therefore, it is logical for the Commission to require educators to schedule educational programming between these hours, thereby releasing the channels for

issue of limiting channel loading to a certain number of channels, and mandating ready recapture on a specific number of channels, RWG strongly submits that the Commission should allow wireless cable operators and educational institutions to negotiate these terms in their excess airtime agreements. Partnerships between educational institutions and wireless cable operators differ from community to community across the nation, and the specific parties are uniquely qualified to decide whether channel loading should be limited to a certain number of channels and whether they prefer ready recapture language in their excess airtime agreements. The Commission should, therefore, refrain from mandating these particular aspects of ITFS.

IV. The Commission Should revise Rule Section 74.902(d) to Reflect That A Showing of Need for The Number of Channels Requested Presumptively Exists When An ITFS Applicant Proposes To Lease Excess Capacity to A Wireless Cable Operator.

Rule Section 74.902(d) provides that an ITFS licensee is limited to the assignment of no more than four channels for use in a single area of operation, and the number of channels authorized to an ITFS applicant will be based on the demonstration of need for the number of channels requested. Authorization for fewer than four channels renders an ITFS licensee an unattractive partner to a wireless cable operator seeking to finance the construction of an ITFS station in exchange for an agreement to lease excess airtime. The Commission should, therefore, revise the current Rule Section 74.902(d) to reflect that the showing of need is presumptively provided when an ITFS applicant proposes to lease excess capacity to a wireless cable operator.

Conclusion

RWG urges the Commission to continue its flexible approach to regulating ITFS by authorizing the use of channel loading for ten

comments will assist the Commission in continuing its flexible approach to regulating ITFS, fostering the primary educational purpose of ITFS and furthering the ancillary purpose of promoting competition to cable systems throughout the nation.

Respectfully submitted,

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